

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

AARON LARRY BOWMAN.

Plaintiff

v.

OUACHITA PARISH SHERIFF'S OFFICE,
ET AL

Defendants

NO. 3:20-01372

JUDGE DOUGHTY

MAG. JUDGE HAYES

MOTION TO DISMISS AND ALTERNATIVE MOTION TO STAY

NOW COME the city of Monroe, Louisiana ("City"), and the Monroe Police Department, who move to dismiss Plaintiff's claims under Federal Rule of Civil Procedure 12(b), or in the alternative, to stay these proceedings for the following reasons:

I. Rule 12(b) Motion to Dismiss

1. Plaintiff's suit against the Monroe Police Department should be dismissed, because the Monroe Police Department lacks capacity to be sued under federal and state law.
2. Plaintiff's claims are time-barred under federal and state law.
3. Plaintiff fails to state a claim against the City under 42 U.S.C. § 1983 for any alleged constitutional violation by the City itself.
4. Plaintiff fails to state a claim under state law against the City for its own negligence or under a theory of *respondeat superior*.
5. Plaintiff fails to state a claim for punitive damages against the City under federal or state law.
6. Plaintiff fails to state a claim for punitive damages against the City.

II. Alternative Motion to Stay

7. In the alternative, if the Court finds that some claims should proceed past the motion to dismiss, then the Court should stay the case pending the outcome of Plaintiff's related state-court criminal proceedings.

WHEREFORE, the premises considered, the city of Monroe, Louisiana, and the Monroe Police Department pray that after all due proceedings, judgment be rendered dismissing all of Plaintiff's claims with prejudice, at his cost. In the alternative, the City and the MPD pray that these proceedings be stayed until the resolution of Plaintiff's related state-court criminal proceedings.

City of Monroe

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the court's electronic filing system.

BY: /s/ Brandon W. Creekbaum
Brandon W. Creekbaum